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June 21, 2018

**VIA ECF**

The Honorable Vince Chhabria  
United States District Court  
San Francisco Courthouse, Courtroom 4 – 17th Floor  
450 Golden Gate Avenue  
San Francisco, CA 94102

**Re: *In re Facebook, Inc., Consumer Privacy User Profile Litigation*, MDL No. 2843**

Dear Judge Chhabria:

Pursuant to the Court's Pretrial Order No. 1 (ECF No. 2), I write to apply for appointment to the plaintiffs' leadership structure, in whatever form your Honor determines will most effectively and efficiently represent the plaintiffs' and proposed class members' interests.<sup>1</sup> I would be honored to serve as lead counsel, co-lead counsel, or a member of a plaintiffs' steering committee should the Court create one.

**Professional Experience**

For the last twenty years, I have worked on numerous complex class actions seeking injunctive and monetary relief for injured consumers and small businesses in antitrust, consumer protection, and product defect cases. I am a senior partner of Gustafson Gluek PLLC ("GG"). I have served as President of the Committee to Support the Antitrust Laws, Secretary of the Minnesota State Bar Association Consumer Law Section, and Chair of the MSBA Antitrust Council. I have been named a "Super Lawyer" by Minnesota Law & Politics from 2013-2017 and a top 100 lawyer in 2015 and 2017.

My firm and I have played a significant role in many cases, including serving as lead counsel or on executive committees: *Bhatia v. 3M Co.*, 16-cv-1304 (D. Minn.) (personally appointed Co-Lead counsel in class action alleging consumer fraud allegations related to the marketing of dental crowns); *In re: Dealer Management Sys. Antitrust Litig.* MDL No. 2817 (N.D. Ill.) (personally appointed to Plaintiffs' Steering Committee); *In re Broiler Chicken Antitrust Litig.*, 16-cv-8637 (N.D. Ill.) (serving as the primary lawyer for my firm in a class action where GG serves as Co-Lead counsel for a class of commercial purchasers of poultry products); *In re: CenturyLink Residential Customer Billing Disputes Litig.*, MDL No. 17-2795 (D. Minn.) (serving as one of the primary lawyers where GG serves as Executive Committee

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<sup>1</sup> My firm represents the plaintiff in *Schinder v. Facebook Inc.*, No. 18-cv-02571-VC (N.D. Cal.).

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Chair for a class of consumers); *Hall v. State of Minn.*, 62-cv-15-2112 (Minn. Dist. Ct.) (serving a major role in case brought on behalf of Minnesota citizens impacted by the Unclaimed Property Act); *In re Disposable Contact Lens Antitrust Litig.*, MDL No. 2626 (M.D. Fla.) (Defendant discovery team leader); *Kleen Prods. v. Int'l. Paper*, 10-cv-5711 (N.D. Ill.) (Defendant discovery team leader in case alleging price fixing of containerboard and producing settlements of over \$300 million); *Shane Group, Inc., et al., v. Blue Cross Blue Shield*, 10-cv-14360 (E.D. Mich.) (GG is Co-Lead counsel; I played a major role recovering \$30 million for plaintiffs); *In re Vitamin C Antitrust Litig.*, MDL No. 1738 (E.D.N.Y.) (GG is Co-Lead counsel and I am primarily responsible for representing the indirect purchaser class); *In re Blue Cross Blue Shield Antitrust Litig.*, 13-cv-20000 (N.D. Ala.) (Damages Committee member).

Moreover, I have had significant roles in cases in the Northern District of California including *In re DRAM Antitrust Litig.*, MDL No. 1486 (part of GG team as Co-Lead counsel for indirect purchasers in N.D. Cal. and multiple state court actions recovering \$310 million in settlements) and *In re TFT-LCD (Flat Panel) Antitrust Litig.* (N.D. Cal.) (part of GG team that played a major role representing indirect purchasers in recovering \$1.2 billion for plaintiffs). For further details, my resume is attached as Exhibit A.

### **Familiarity with Claims**

In addition to complex class action litigation in general, my firm and I have significant experience in the areas of data privacy and data security practices. For example, I served as co-lead litigation and settlement class counsel in *Landwehr v. AOL Inc.*, 11-cv-1014 (E.D. Va.), an early consumer privacy and consumer fraud action based on AOL's unauthorized release of its users' private search history data. AOL involved allegations of violations of the Stored Communications Act (Title II of the Electronic Communications Privacy Act) similar to those asserted by plaintiffs here. Other representative cases that my firm and I have been involved in include *In re The Home Depot, Inc., Customer Data Security Breach Litigation*, 14-md-2583 (N.D. Ga.) (data breach case; GG appointed by co-lead counsel as co-chair of investigations committee for financial institution plaintiffs), and *Greater Chautauqua Federal Credit Union v. Kmart Corp.*, 15-cv-2228 (N.D. Ill.) (data breach case; GG appointed as member of plaintiffs' executive committee on behalf of financial institution plaintiffs).

### **Commitment and Ability to Prosecute this Litigation**

I, along with my team of very capable attorneys at Gustafson Gluek, are willing and able to devote significant time to prosecuting this class action. Our firm is accustomed to funding complex litigation and this case is no exception. My partner, Dan Gustafson, has served as lead counsel and a steering committee member in countless complex class and collective action cases in Minnesota and across the nation. He is particularly experienced in trials, working with experts, and brokering complex settlements as evidenced in *In re Syngenta Litig.*, No: 27-CV-15-3785 (Minn. Dist. Ct.) (co-lead counsel in state court action representing classes of farmers and businesses against Syngenta for the release of unapproved GMO corn in key export markets, lowering U.S. corn prices, and resulting in a \$1.5 billion settlement).

Gustafson Gluek has worked collegially and efficiently with many of the other lawyers and firms likely to file for leadership to achieve extraordinary results for class members and will continue to do so in this important case. Many of these firms support my leadership appointment (attached as Exhibit B) including one of the nation's preeminent trial lawyers, Joe Goldberg

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(lead trial attorney in *In Re Urethane Litigation*, Civil No. 04-md-1616-JWL (D. Kan.) that accused The Dow Chemical Co. of price-fixing resulting in a \$1.2 billion judgment). Gustafson Gluek is also committed to working with defense counsel to efficiently litigate and resolve the case. As evidence, in *Precision Assocs. v. Panalpina World Transp. (Holding) Ltd.*, No. 08-CV-42 (E.D.N.Y.) (GG was co-lead counsel in antitrust class action in which I played a major role in recovering over \$450 million), we reached settlements with twenty-eight defendant corporate groups after many years of hard fought litigation. Once we agreed to settle, we engaged in arms-length but cooperative negotiations with twenty-eight sets of defense counsel.

### **Ability to Maintain Reasonable Fees and Expenses**

As co-lead counsel in *In re Broiler Chicken Antitrust Litigation*, 16-cv-8637 (N.D. Ill.), and *Bhatia v. 3M Co.*, 16-cv-1304 (D. Minn.), I implemented time and expense protocols designed to ensure that the fees and expenses incurred by all plaintiffs' counsel remain reasonable. I would implement similar requirements in this case. For example, time should be billed in tenths of an hour, block billing should not be permitted, general read and review time should not be compensated, work should be performed only under the direction of lead counsel, the hourly rate for document review time should be capped, copying and other internal costs must not exceed a firm's actual costs, and travel expenses should be subject to reasonable limits.

### **Other Considerations**

Outside of my success litigating and resolving complex cases, appointment as lead counsel, co-lead counsel, or a member of the plaintiffs' steering committee would ensure geographic diversity among Plaintiffs' counsel. While California has the most class members, Minnesota and other Midwestern states have millions of class members. In this highly public case, it will be important that Plaintiffs from different parts of the country believe their best interests are being represented.

Gustafson Gluek prides itself on being a diverse group of problem solvers that can tackle any issue. Our team is comprised of nine female and eight male attorneys—all from a variety of cultures, backgrounds, and life experiences that bring new perspectives to our work to truly represent our clients. Not only is diversity within the firm important to GG, but so too is being an advocate for the underrepresented. Gustafson Gluek was one of four firms to create the Minnesota Pro Se Project, pairing indigent federal litigants with attorneys. For its work on the Project, the firm was honored with the "Distinguished Pro Bono Service Award" for "rising to the Court's challenge of bringing the idea of the Pro Se Project to fruition and nurturing the Project into its current form."<sup>2</sup>

Respectfully submitted,

GUSTAFSON GLUEK PLLC

/s/Daniel C. Hedlund

Daniel C. Hedlund

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<sup>2</sup> <http://www.fedbar.org/Chapters/Minnesota-Chapter/Newsletters.aspx>.

# EXHIBIT A



**Daniel C. Hedlund**

Daniel C. Hedlund is a member of Gustafson Gluek PLLC. He is a graduate of Carleton College (B.A. 1989) and is a *cum laude* graduate of the University of Minnesota Law School (J.D. 1995). He was a Note and Comment Editor and member of the Minnesota Journal of Global Trade from 1993-1995 and a recipient of the Federal Bar Association's John T. Stewart, Jr. Memorial Fund Writing Award (1994). He served as a law clerk in the Minnesota Court of Appeals (1997) and the Fourth Judicial District of Minnesota (1995-1996).

Mr. Hedlund has practiced in the areas of antitrust, securities fraud, and consumer protection since 1997. He is a member of the Federal, American, and Minnesota Bar associations and currently serves as Co-Vice President for the Eighth Circuit of the Federal Bar Association. He recently served as Chairman for the Antitrust Section of the Minnesota State Bar Association (MSBA), Secretary for the MSBA Consumer Litigation Section, and is a past President of the Committee to Support the Antitrust Laws.

In addition to presenting at CLEs, Mr. Hedlund has testified multiple times before the Minnesota legislature on competition law, and before the Federal Rules Committee on discovery issues. He is a co-author of the "Plaintiff Overview" in Private Antitrust Litigation 2015 – Getting the Deal Through, and a contributor to Concurrent Antitrust Criminal and Civil Procedure 2013 – ABA.

In 2013-2017, he was designated by *Law & Politics* magazine as a Minnesota "Super Lawyer," in the field of antitrust law. "Super Lawyer" selection results from peer nominations, a "blue ribbon" panel review process and independent research on the candidates; no more than 5% of lawyers in Minnesota are selected as "Super Lawyers." He was also ranked in the Top 100



MN Super Lawyers in 2015 and 2017. Mr. Hedlund has served as a volunteer attorney for the Minnesota Federal Bar Association's Federal *Pro Se* Project and received the Minnesota District Court's Distinguished Pro Bono Service Award in 2011.

Mr. Hedlund is currently or has been actively involved in the representation of plaintiff classes in numerous cases, including: *In re Dealer Management Systems Antitrust Litig.* (N.D. Ill.) (Member-Plaintiffs' Steering Committee); *In re Broiler Chicken Antitrust Litig.* (N.D. Ill.) (Co-Lead Counsel-Commercial and Institutional Indirect Purchaser Class); *Kleen Prods. v. Intl. Paper (Containerboard Antitrust Litig.)* (N.D. Ill.) (Discovery Team Co-Leader); *Bhatia v. 3M Co.* (D. Minn.) (Co-Lead Counsel); *In re: CenturyLink Residential Customer Billing Disputes Litig.* (D. Minn.) (Executive Committee Chair); *Precision Assocs., Inc. v. Panalpina World Transport (Holding) Ltd.* (E.D.N.Y.) (Co-Lead Counsel); *Shane Group, Inc. v. Blue Cross Blue Shield of Michigan* (E.D. Mich.) (Co-Lead Counsel); *In re Capacitors Antitrust Litig.* (N.D. Cal.); *In re Resistors Antitrust Litig.* (N.D. Cal.); *Landwehr v. AOL Inc.*, (E.D. Va.) (Co-lead class counsel); *In re Vitamin C Antitrust Litig.* (E.D.N.Y.) (Co-Lead Counsel-Indirect Purchaser Classes); *In re Blue Cross Blue Shield Antitrust Litig.* (N.D. Ala.) (Member-Damages Committee); *In re Packaged Seafood Antitrust Litig.* (S.D. Cal.); *In re DRAM Antitrust Litig.* (Co-Lead Counsel--indirect purchaser class actions); *In re Flash Memory Antitrust Litig.* (N.D. Cal.); *In re Processed Egg Prods. Antitrust Litig.* (E.D. Pa.); *In re TFT-LCD (Flat Panel) Antitrust Litig.* (N.D. Cal.); *In re St. Paul Travelers Securities Litig. II* (D. Minn.); *In re AOL Time Warner Securities Litig.* (S.D.N.Y.) (Prior firm Co-Lead Counsel); *In re Commercial Tissue Antitrust Litig.* (N.D. Fla.); *In re NASDAQ Market-Makers Antitrust Litig.* (S.D.N.Y.); *In re Polypropylene Carpet Antitrust Litig.* (N.D. Ga.).

# EXHIBIT B

**Plaintiffs' Counsel in Support of Dan Hedlund's Appointment to Leadership**

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